JS 44 (Rev. 11/15) BMS 17-cv-0631

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Yahaira Rivera

DEFENDANTS
Franklin Collection Service, Inc. 17 0631

(b) County of Residence of First Listed Plaintiff: Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant ______
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Antranig Garibian, Esq. Garibian Law Offices, PC
1800 JFK Blvd, Suite 300, Philadelphia, PA 19103
215-326-9179, ag@garibianlaw.com

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*
- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)* *(For Diversity Cases Only)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*
- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
Fair Debt Collection Practices Act - 15 USC 1692 et seq.
Brief description of cause:
Improper collection efforts regarding harassing collection letter

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*:
JUDGE ______ DOCKET NUMBER ______

DATE 2/7/17
SIGNATURE OF ATTORNEY OF RECORD [signature]

FOR OFFICE USE ONLY
RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

FEB 10 2017

BMS **UNITED STATES DISTRICT COURT** 17 0631

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Yahaira Rivera 901 Brighton Street Philadelphia, PA 19111

Address of Defendant: Franklin Collection Services, Inc. 2978 W. Jackson Street Tupelo, MS 38803

Place of Accident, Incident or Transaction: ____________________

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☑

Does this case involve multidistrict litigation possibilities? Yes☐ No☑

RELATED CASE, IF ANY:
Case Number: ____________ Judge ____________ Date Terminated: ____________

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☑
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☐ No☑
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☑
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☑

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☑ All other Federal Question Cases
(Please specify) 15 USC Sect 1692 et seq - FDCPA

B. *Diversity Jurisdiction Cases:*

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) ____________

ARBITRATION CERTIFICATION
(Check Appropriate Category)

I, Antranig Garibian, Esq., counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

FEB 10 2017

DATE: 2/7/17 [signature] Attorney-at-Law 94538 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 2/7/17 [signature] Attorney-at-Law 94538 Attorney I.D.#

CIV. 609 (5/2012)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Yahaira Rivera	:	CIVIL ACTION
v.	:	17 0631
Franklin Collection Services, Inc.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

2/6/2017	Antranig Garibian, Esq.	Yahaira Rivera
Date	**Attorney-at-law**	**Attorney for**
215-326-9179	267-238-3707	ag@garibianlaw.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

FEB 10 2017

Court Name: EDPA-Philadelphia
Division: 2
Receipt Number: PPE154793
Cashier ID: stomas
Transaction Date: 02/13/2017
Payer Name: GARIBIAN LAW OFFICES PC

CIVIL FILING FEE
For: GARIBIAN LAW OFFICES PC
Amount: $400.00
CIVIL FILING FEE
For: GARIBIAN LAW OFFICES PC
Amount: $400.00
CIVIL FILING FEE
For: GARIBIAN LAW OFFICES PC
Amount: $400.00
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Amount: $400.00
CIVIL FILING FEE
For: GARIBIAN LAW OFFICES PC
Amount: $400.00

PAPER CHECK CONVERSION
Remitter: GARIBIAN LAW OFFICES PC
Check/Money Order Num: 1189
Amt Tendered: $2,800.00

Total Due: $2,800.00
Total Tendered: $2,800.00
Change Amt: $0.00

17-CV-628 TO 632, 642, 643

Only when bank clears the check, money order, or verifies credit of funds is the fee or debt officially paid or discharged. A $53 fee will be charged for a returned check.

#400

BMS

BMS

(1)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

---x

YAHAIRA RIVERA

Plaintiff,

CIVIL ACTION NO.

COMPLAINT 17 0631

-v-

FILED
FEB 10 2017
KATE BARKMAN, Clerk
By ____ Dep. Clerk

FRANKLIN COLLECTION SERVICE, INC.

Defendant.

---x

Plaintiff Yahaira Rivera ("Plaintiff" or "Rivera") by and through her attorneys, Garibian Law Offices, P.C., as and for her Complaint against Defendant Franklin Collection Service, Inc. ("Defendant") respectfully sets forth, complains and alleges, upon information and belief, the following:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as well as 15 U.S.C. § 1692 *et seq*. and 28 U.S.C. § 2201.
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).
3. Plaintiff brings this action for damages arising from the Defendant's violation(s) of 15 U.S.C. § 1692 *et seq*., commonly known as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

4. Plaintiff is a resident of the Commonwealth of Pennsylvania, County of Philadelphia, residing at 901 Brighton Street, Philadelphia, PA 19111.
5. Defendant is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in

5

the FDCPA, with an address at 2978 W Jackson Street, Tupelo, MS 38803-3910.

FACTUAL ALLEGATIONS

6. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.
7. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff ("Alleged Debt").
8. The Alleged Debt was incurred as a financial obligation that was primarily for personal, family or household purposes and is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5).
9. On or around March 29, 2016, Defendant sent a letter (the "Letter") seeking collection of the Alleged Debt to Plaintiff. See **Exhibit A** annexed hereto.
10. The Letter offers settlement terms and advises Plaintiff to send payment of the settlement amount to Defendant.
11. In the alternative, the Letter states "If you are not paying this account….contact your attorney regarding our potential remedies, and your defenses."
12. This language is threatening and coercive and was made with the intent of scaring Plaintiff into making payment.
13. This abusive language caused Plaintiff to become extremely upset and disheartened due to the extremely difficult financial struggle she is currently enduring.
14. As a result of Defendant's deceptive, misleading and unfair debt collection practices described above, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

15. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.

16. Defendant's debt collection efforts attempted and/or directed towards Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(10), 1692f and 1692g.

17. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendant as follows:

a) For actual damages provided and pursuant to 15 U.S.C. § 1692k(a)(1);

b) For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A);

c) For attorney fees and costs provided and pursuant to 15 U.S.C. § 1692k(a)(3);

d) A declaration that Defendant's practices violated the FDCPA; and

e) For any such other and further relief, as well as further costs, expenses and disbursements of this action as this Court may deem just and proper.

Respectfully Submitted,

GARIBIAN LAW OFFICES, P.C.

Antranig Garibian, Esq.
PA Bar No. 94538
1800 JFK Boulevard, Suite 300
Philadelphia, PA 19103
ag@garibianlaw.com
Counsel for Plaintiff, Yahaira Rivera

EXHIBIT A

YAHAIRA RIVERA
901 BRIGHTON ST
PHILADELPHIA, PA 19111-4128
60599-01B

THE COLLECTION FIRM
OF
FRANKLIN COLLECTION SERVICE, INC.
PO BOX 3910
TUPELO, MS 38803-3910
TOLL FREE: (888) 315-0912

FW-01

www.franklinservice.com

Notice Date: MARCH 29, 2016
Make checks payable to Franklin Collection Service, Inc.

Owed To:	AT&T
FCSI Case Number:	01-027776236
Client Account Number:	464086815277
Total Due This Account:	$1950.37

FCSI
P.O. BOX 3910
TUPELO, MS 38803-3910

00126

Detach and return top portion with your statement.

SETTLEMENT OPPORTUNITY

MR./MS. RIVERA,

This account has been placed with our office for collection. You have an outstanding balance of $1950.37 owed to AT&T. In an effort to help you resolve this matter we agree to offer you a settlement of $1365.26. To accept this offer please send payment of $1365.26. *If you are not paying this account*, call (888) 315-0912 for other available options, or contact your attorney regarding our potential remedies, and your defenses.

I intend to report this account on your credit history after (30) thirty days of you receiving this notice.

To discuss your payment options call 1-888-315-0912. Don't want to talk to a live FCSI case worker? Go to www.franklinservice.com to pay online, or to chat with an online FCSI representative. To pay by phone 24 hours a day you may call 866-319-0760. You may pay by credit or debit card by completing the back of this notice. Please have your check or credit/debit card information ready.

*Be sure to include your FCSI case number.

This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

Business Hours Monday - Friday 8am - 9pm, Saturday 8am - 5pm CST

Franklin Collection Service, Inc.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION